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COUNSEL FOR DAN LAIN, TRUSTEE OF THE
LIQUIDATING CREDITOR TRUST

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:	§	
	§	**CASE NO. 09-37010-sgj11**
ERICKSON RETIREMENT	§	
COMMUNITIES, LLC, *et al.*[1]	§	**CHAPTER 11**
	§	
Debtors	§	
	§	

LIQUIDATING TRUSTEE'S OBJECTION TO
PROOF OF CLAIM NUMBER 534 FILED BY WILSON ONDARA

Dan B. Lain, Trustee of the Liquidating Creditor Trust ("Liquidating Trustee") files this Objection to Proof of Claim Number 534 Filed by Wilson Ondara (the "Objection"), objecting to proof of claim number 534 and seeking entry of an order pursuant to sections 502(a) and (b) and 503 of Title 11 of the United States Code (the "Bankruptcy Code") and Rule 3007 of the Federal Rules of Bankruptcy Procedure, expunging and/or disallowing such claim in its entirety. In support of his Objection, the Liquidating Trustee respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction of this case pursuant to 28 U.S.C. §§ 1334 and 157. This matter is a core proceeding pursuant to 28 U.S.C. §§ 157(b).

[1]The Debtors in these Chapter 11 Cases (the "Cases") were Erickson Retirement Communities, LLC; Ashburn Campus, LLC; Columbus Campus, LLC; Concord Campus GP, LLC; Concord Campus, LP; Dallas Campus GP, LLC; Dallas Campus, LP; Erickson Construction, LLC; Erickson Group, LLC; Houston Campus, LP; Kansas Campus, LLC; Littleton Campus, LLC; Novi Campus, LLC; Senior Campus Services, LLC; Warminster Campus GP, LLC; and Warminster Campus, LP.

2. Venue is proper in this District pursuant to 28 U.S.C. § 1409(a).

BACKGROUND

3. On October 19, 2009 ("Petition Date"), the Debtors filed their voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

4. On November 2, 2009, the Office of the United States Trustee appointed the Official Committee of Unsecured Creditors (the "Creditors' Committee").

5. This Court confirmed the Debtors' Fourth Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code, dated March 8, 2010 (the "Plan") on April 16, 2010.[2] [Docket No. 1355]. The Liquidating Trustee has authority to object to Claims pursuant to Section 6.4.12 of the Plan. [Docket No. 1005].

6. Pursuant to the authority granted to the Creditors' Committee in Section 6.4.11 of the Plan, on April 8, 2010, the Committee filed the definitive trust document establishing and governing the Liquidating Creditor Trust (the "Trust Agreement"). Dan B. Lain was appointed Trustee ("Liquidating Trustee") of the Liquidating Creditor Trust ("Trust"). On April 30, 2010, the Plan became effective (the "Effective Date"). On the Effective Date, the Trust Agreement was executed by the Liquidating Trustee, the Creditors' Committee, the Acquisition Companies,[3] the Debtors, and the Reorganized Debtors (collectively, the "Parties").

7. Each of the Debtors filed Schedules of Assets and Liabilities (collectively the "Schedules") with the Court. In addition to the Claims scheduled by the Debtors, various parties filed proofs of claim against the Debtors' bankruptcy estates pursuant to § 501 of the Bankruptcy

[2] Unless otherwise defined herein, capitalized terms used herein shall have the meaning ascribed to them in the Plan.
[3] The Acquisition Companies in these Cases are the following companies that formed to acquire substantially all of the assets relating to the Debtors' business as of the Petition Date: Redwood, ManagementCo, DevCo, PropCo, Redwood Kansas, Redwood Concord, Redwood Dallas, Redwood Houston, Redwood Ashburn, Redwood Littleton, Redwood Novi, Redwood-ERC Tinton Falls II, LLC, and Redwood-ERC Senior Care, LLC.

Code. The Court's deadline for creditors' proofs of claim to be received by the bankruptcy clerk's office was February 28, 2010. [Docket No. 61].

RELIEF REQUESTED AND BASIS FOR RELIEF

8. The Liquidating Trustee has examined the schedules and the proofs of claim filed in each of the Debtors' cases, along with the supporting documentation (if any) submitted with each proof of claim. In addition, the Liquidating Trustee has inspected the Debtors' books and records in order to determine whether the various proofs of claim filed in these cases are accurate and represent bona fide liabilities.

9. As a result of the Liquidating Trustee's thorough examination, he has determined that proof of claim number 534 filed by Wilson Ondara in the amount of $60,000.00 ("Ondara Claim") is objectionable because it does not comply with Federal Rule of Bankruptcy Procedure 3001 and the Liquidating Trustee is unable to determine the validity of the claim due to noncompliance. *See* Ondara Claim, attached hereto as Exhibit A; Fed. R. Bank. P. 3001. Mr. Ondara asserts the basis of his claim is "job discrimination;" however, Mr. Ondara does not include any documentation to support this claim. *See* Exhibit A. Mr. Ondara does not provide a judgment against the Debtor or any other evidence that the Ondara Claim is enforceable against the Debtor under any agreement or applicable law. *Id*., *see also*, 11 U.S.C. § 502(b)(1). While the Debtor lists Mr. Ondara in its schedules, the claim is listed as contingent, unliquidated, disputed, and of an unknown amount. *See* Erickson Retirement Communities, LLC's Schedules [Docket No. 383]. Therefore, the Liquidating Trustee is unable to determine the validity or amount of the Ondara Claim and it should be disallowed in its entirety.

10. Under § 502(a) of the Bankruptcy Code, a claim is "deemed allowed unless a party-in-interest . . . objects." 11 U.S.C. § 502(a). Consequently, absent this Objection, the Ondara Claim would be allowed against the Trust despite the fact that it does not provide

sufficient documentation as required by Federal Rule of Bankruptcy Procedure 3001 and, as a result, there is no way for the Liquidating Trustee to determine the validity or amount of the Ondara Claim.

11. The Liquidating Trustee hereby objects to the Ondara Claim and requests that the Court disallow this claim in its entirety. This objection is made so that the Liquidating Trustee will not be required to pay any claim that does not provide any support for the validity or the amount of the claim or any claim that the Liquidating Trustee is unable to validate.

RESERVATION OF RIGHTS

12. The Liquidating Trustee reserves the right to object to the Ondara Claim on further and different grounds.

CONCLUSION

WHEREFORE, the Liquidating Trustee respectfully requests that the Court disallow in its entirety, as a claim against the Trust, the Ondara Claim. The Liquidating Trustee further seeks such other and further relief to which he may show himself justly entitled at law or in equity.

Date: July 27, 2012.

Respectfully submitted,

BRACEWELL & GIULIANI LLP

By: */s/ Lauren C. Kessler*

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ATTORNEYS FOR DAN LAIN, TRUSTEE OF THE LIQUIDATING CREDITOR TRUST

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and complete copy of the Liquidating Trustee's Objection to Proof of Claim Number 534 Filed by Wilson Ondara and the Exhibit thereto were served on this 27th day of July 2012 via first class United States mail upon the following:

Wilson Ondara
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